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SECTION I. SHORT TITLE

This local law shall be cited as Local Law No. 1-2026 of the Town of Newfane, and it is entitled “2026 Temporary Moratorium Law on Battery Energy Storage System (BESS) Facilities.”

SECTION II. LEGISLATIVE FINDINGS

WHEREAS, the Town Board finds that Battery Energy Storage System (BESS) facilities present emerging land use, fire safety, environmental, and emergency response considerations that continue to evolve at the state and national level; and

WHEREAS, the Town Board previously adopted Local Law No. 1-2025 to impose a temporary moratorium on BESS facilities in order to allow the Town sufficient time to study and address such uses; and

WHEREAS, at a joint fire board meeting held on January 13, 2026, the Town received input from the Olcott Fire Company, Wrights Corners Fire Company, and Miller Hose Fire Company, including concerns relating to emergency response capabilities, firefighter training, equipment availability, and coordination with state agencies with respect to BESS facilities; and

WHEREAS, the Town Board finds that there remain unresolved concerns regarding, among other things: fire suppression and emergency response protocols for BESS facilities; the availability, adequacy, and specialized training of local emergency responders; the availability of appropriate firefighting equipment and resources; coordination among state agencies with jurisdiction over BESS facilities; and the need to ensure that local land use regulations remain consistent with evolving state guidance and safety standards; and

WHEREAS, the Town Board finds that BESS facilities present evolving land use and public safety considerations, and that a temporary moratorium on the acceptance, processing, consideration, or approval of any application, permit, site plan, special exception use permit, variance, building permit, or other approval relating to the construction, installation, or expansion of any BESS facility within the Town of Newfane is a reasonable and necessary land use planning tool to prevent the establishment of uses that may pose a risk to public safety while the Town continues to evaluate and, if necessary, amend its zoning and related regulations to address concerns related to BESS facilities; and

WHEREAS, the Town Board has determined that the adoption of Local Law No. 1-2026, entitled “2026 Temporary Moratorium Law on Battery Energy Storage System (BESS) Facilities,” constitutes a Type II action under the State Environmental Quality Review Act (“SEQRA”) (6 NYCRR § 617.5), as a temporary moratorium enacted for planning purposes that does not authorize physical alteration of the environment; and

WHEREAS, the Town Board finds that the implementation of a temporary moratorium in accordance with this local law will allow a comprehensive and deliberate examination of the needs and concerns of the community related to BESS facilities.

SECTION III. AUTHORITY

This Local Law is enacted pursuant to Article IX of the New York State Constitution, Municipal Home Rule Law § 10, and the Town Law of the State of New York.

SECTION IV. MORATORIUM

The term Battery Energy Storage System (BESS) shall mean one or more devices or systems, whether assembled or installed together or separately, capable of storing electrical energy for later use or discharge, including batteries, battery modules, associated power conversion equipment, control systems, safety systems, enclosures, and related equipment. The term shall not include a stand-alone 12-volt automotive battery or an electric motor vehicle.

For a period of six (6) months from the effective date of this Local Law, the Town of Newfane shall not accept, process, consider, or approve any application, permit, site plan, special exception use permit, variance, building permit, or other approval relating to the construction, installation, or expansion of any BESS facilities within the Town of Newfane.

This moratorium may be extended by one (1) additional period of up to six (6) months by resolution of the Town Board upon a finding of necessity for such extension.

SECTION V. LIMITED WAIVERS

Notwithstanding any other provision of this Local Law, the Town Board of the Town of Newfane may, in its sole discretion, vary, modify, or waive the application of any provision of this Local Law by resolution, after a public hearing, upon a finding that (i) strict application of this Local Law would impose practical difficulties or extraordinary hardship upon an applicant, (ii) that the relief granted would not adversely affect the health, safety, or welfare of the citizens of the Town, and (iii) that such relief would not be inconsistent with the general purpose and intent of this Local Law. The Town Board may impose such conditions and limitations on any relief granted as it deems necessary to ensure consistency with the purposes of this Local Law.

Any request for relief under this provision shall be made in writing, filed with the Town Clerk, and shall include a fee of Five Hundred Dollars (\$500.00) for the processing of such application. All such applications shall promptly be referred to the Town Board, which shall conduct a Public Hearing on the application on not less than five (5) days public notice, and the Town Board shall make its decision on the application within sixty (60) days after the close of the Public Hearing.

SECTION VI. SEVERABILITY

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof.

SECTION VII. REPEAL OF OTHER LAWS

This Local Law is intended to supersede any inconsistent provisions of the Town Code or other local enactments for the duration of the moratorium, including any extensions, to the extent permitted by law.

SECTION VIII. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the New York State Secretary of State in accordance with the law.

Dated: January 2026

BY ORDER OF THE TOWN BOARD, TOWN OF NEWFANE, NEW YORK
DONNA LAKES, TOWN CLERK